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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,072	03/01/2002	Bozidar Ferek-Petric	P-8158.02 DIV1	1422
27581 .7590 12/19/2006 MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			EXAMINER OROPEZA, FRANCES P	
			ART UNIT	PAPER NUMBER
			3766	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/19/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/085,072	FREDIC	
	Examiner	Art Unit	
	Frances P. Oropeza	3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/11/06 (Amendment).
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35 and 37-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. The Applicant amended independent claim 35, hence the rejection of record is withdrawn and a new rejection established in the subsequent paragraphs.

Claim Rejections - 35 USC § 102

2. Claims 35 and 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Soykan et al. (US 6206914).

Soykan et al. teach an implantable multi-chamber pacing system with drug treatment that monitors ECG signals and coronary sinus blood flow signals to detect and treat ischemia (fig. 5; col. 1 @ 23-39; col. 2 @ 30-40; col. 3 @ 23-30; col. 5 @ 21-36; col. 13 @ 46-64; col. 16 @ 23-46).

Soykan et al. teach incorporating the stimulation device of US 5702427 to Ecker et al. (col. 16 @ 53-58), hence including in the instant invention atrial and ventricular sensing means and signals (fig. 9 – Ecker et al.) and pacemaker and defibrillator type IPGs (implantable pulse generators) (col. 6 @ 21-27).

The Soykan et al. system includes sensing elements (leads) coupled to the cardiac rhythm management device to detect changes in the physiological properties (the properties read as the level of blood flow (blood flow velocity), the atrial signals, and the ventricular signals), the detected changes serving to trigger release of the therapeutic agent (col. 3 @ 14-30; col. 4 @ 66 – col. 5 @ 4; col. 5 @ 21-36). One disclosed embodiment is a lead located in the coronary sinus, upstream of the coronary arteries, to provide local feedback to the device to control local delivery of the drug

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treatment (col. 4 @ 66 – col. 5 @ 4; col. 5 @ 48-52; col. 8 @ 45-55; col. 16 @ 42-46). This lead contains a means for producing a signal representative of blood flow velocity, an acoustic Doppler sensor (col. 16 @ 42-53).

As to claim 35, Soykan et al. teach using one or more sensors to monitor the cardiac condition of a patient including the monitoring of blood flow velocity through the coronary sinus, and monitoring an increase in the elevation of the ST segment of cardiac waveform. Since the natural physiological sequence in an ischemic cardiac condition is known to be a decrease coronary sinus blood flow prior to an elevated ST segment, it is inherent the decreased blood flow velocity signal would precede the ST element elevation signal when using and analyzing signals from a flow meter and an EKG sensor, the monitoring signals creating an output signal to provide appropriate therapy for the ischemic condition of the patient (col. 1 @ 28-39; col. 2 @ 54 – col. 3 @ 5; col. 3 @ 35-30; col. 5 @ 21-36; col. 13 @ 47-64; col. 16 @ 23-61)

As to claim 38, the telemetry system used in the instant invention, a Medtronic Model 9790 programmer (specification – page 5, line 25), is the same programmer used in the Soykan et al. reference (col. 15 @ 18), hence Soyken et al. teach “remotely programming the signal processing means via a wireless telemetry link”.

Statutory Basis

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular and for After Final communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frances P. Oropeza
Patent Examiner
Art Unit 3766

JPO
12/10/06


Robert E. Pezzuto
Supervisory Patent Examiner
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